

REMARKS

Claims 1, 2, 16 and 17 are presented for consideration, with Claim 1 being independent.

The abstract has been replaced to better set forth technical features of the invention.

Claim 1 has been amended to further distinguish Applicants' invention from the cited art. In addition, Claims 16 and 17 have been added to provide an additional scope of protection.

Initially, Claims 2 was rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. Particular attention was paid to the grounds for this rejection as set forth in paragraph 4 of the Office Action in amending Claim 2 as shown above. Accordingly, it is submitted that all of the claims are in full compliance with the particularity and distinctness requirements of the statute, and thus reconsideration and withdrawal of the rejection under 35 U.S.C. §112 is respectfully requested.

Claim 1 is rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Disharoon '401. In addition, Claim 2 is rejected as allegedly being anticipated by or, in the alternative, as allegedly being obvious under 35 U.S.C. §103 in view of Disharoon. These rejections are respectfully traversed.

Claim 1 of Applicants' invention relates to a vibrating knife comprising an excision member which is brought into contact with a target and vibrated in a direction at an

angle to a traveling direction in excision so as to excise the target. As claimed, the excision member comprises a leading end face located on a forward side in a traveling direction to excise the target and a trailing face located on a backward side in the traveling direction to separate the excised target from the excision member. As amended, the leading face is formed of either a hydrophobic surface or a hydrophillic surface depending on properties of the target, and the trailing end face is formed of a different surface.

Support for the amendments to Claim 1 can be found, for example, on page 3, line 25 through page 5, line 11, and on page 9, line 9, *et. seq.*, of the specification. In accordance with Applicants' invention, a high performance vibrating knife is provided.

The Disharoon patent relates to a method and apparatus for using a vitreous carbon knife element. As shown in Figures 2 and 3, a plate 31 has a knife edge 38. The plate 31 is a vitreous carbon sheet, which is a hydrophobic material, but at least one surface adjacent to the knife edge maybe rendered hydrophillic (column 7, lines 30-38). In contrast to Applicants' claimed invention, however, Disharoon fails to teach or suggest, among other features, providing an excision member with a leading end face formed of either a hydrophobic surface or a hydrophillic surface depending on properties of the target and the trailing end face formed of a different surface.

Accordingly, reconsideration and withdrawal of the rejections of the claims is deemed to be in order and such action is respectfully requested.

Accordingly, it is submitted that Applicants' invention as set forth in independent Claim 1 is patentable over the cited art. In addition, dependent Claims 2, 16 and 17 set forth additional features of Applicants' invention. Independent consideration of the dependent claims is respectfully requested.

FIRST SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

In compliance with the duty of disclosure under 37 C.F.R. §1.56 and in accordance with the practice under 37 C.F.R. §§1.97 and 1.98, the Examiner's attention is directed to the document listed on the enclosed Form PTO-1449.

The fee in the amount of \$180.00 pursuant to 37 C.F.R. §1.97(c) and §1.17(p) is being paid electronically.

It is respectfully requested that the above information be considered by the Examiner and that a copy of the enclosed Form PTO-1449 be returned indicating that such information has been considered.

CONCLUSION

In view of the foregoing, reconsideration and allowance of this application is deemed to be in order and such action is respectfully requested.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

/Scott D. Malpede/

Scott D. Malpede
Attorney for Applicants
Registration No. 32,533

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

SDM/rnm

FCHS_WS 1889742v1